IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.60 OF 2003

IN

WRIT PETITION NO.1375 OF 2003

Shri Gopal B. Gurav ... Petitioner

v/s

Municipal Corporation of Greater Bombay and others ... Respondents

Mr Vinod Thacker for Petitioner.

Mr M.M. Borkar for Respondents.

CORAM : D.K.DESHMUKH AND MRS NISHITA MHATRE JJ.

DATE : 17TH AUGUST 2004

P.C.: -

1. This is a petition for review of the order passed by the Division Bench of this Court rejecting the petition on the ground that there are disputed questions of fact and therefore, the remedy of filing a writ petition under Article 226 of the Constitution of India is not available to the petitioner. Even according to the learned counsel appearing for petitioner, for carrying out the repairs to the room of which according to the petitioner he is a tenant, permission of the respondent No.1 - B.M.C. would be necessary. If that is so, there can be no fault found with the Corporation asking for no objection from the owner. Admittedly, there is a dispute between the respondent No.2 - owner and the petitioner about capacity in which the petitioner is occupying the room. Therefore, this is a matter which involves disputes questions of fact and in our opinion, there is no reason to review the order.

2. The learned counsel appearing for petitioner himself states that he has already filed civil suit. If the civil suit has already been filed by the petitioner, the petitioner was not at all justified in prosecuting

the review petition. This clearly amounts to abuse of process of the Court. In our opinion, therefore, cost has to be imposed on the petitioner. Review petition is therefore rejected with cost. The petitioner is directed to pay to the respondents as and by way of cost Rs.10,000./-.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.